

Office of the Attorney General
State of Tennessee

***1 Opinion No. 98-183**
September 9, 1998

Creation of New Emergency Communications District

Honorable Jack Sharp
State Representative
107 War Memorial Building
Nashville, TN 37243-0130

QUESTION

Does 1998 Tenn. Pub. Acts Ch. 1108, relative to emergency communications districts, prohibit the City of East Ridge from holding a referendum to allow the creation of a new emergency communications district without prior approval of the Emergency Communications Board created under that act?

OPINION

1998 Tenn. Pub. Acts Ch. 1108, Section 14, provides that no referendum to allow the creation of a new emergency communications district within the boundaries of an existing emergency communications district may take place without prior approval by the Emergency Communications Board. Thus, if the City of East Ridge is within the boundaries of an existing emergency communications district, it may not hold a referendum to create a new municipal communications district without the prior approval of this board. If it is not within the boundaries of an existing emergency communications district, it may hold such a referendum, but the newly created district must have its 911 system approved by the board prior to implementation.

ANALYSIS

This opinion concerns the impact of 1998 Tenn. Pub. Acts Ch. 1108 (the "Act") on the creation of new emergency communications districts. Under Tenn. Code Ann. § 7-86-104, the legislative body of a city or county may create an emergency communications district within all or part of the boundaries of the municipality or county. The statute provides for a referendum of voters within the boundaries of the proposed district to approve the new district. An emergency communications district created under this statute has the powers set forth in Tenn. Code Ann. § 7-86-105 through § 7-86-127. The request indicates that the City of East Ridge is considering creating a new emergency communications district within the boundaries

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of the municipality.

The Act amends the statutory scheme governing emergency communications services at Tenn. Code Ann. §§ 7-86-101, et seq. Section 5 of the Act creates an Emergency Communications Board, referred to as "the board" throughout the rest of the statute, within the Department of Commerce and Insurance to assist emergency communications district boards of directors throughout the State. Various sections of the Act describe the powers and responsibilities of the Emergency Communications Board. Under Section 10 of the Act, for example, this board is authorized to establish operating standards for emergency communications districts and to establish operating standards concerning acceptable uses of revenue for emergency communications districts. Under Section 11 of the Act, the board is required to develop and implement a plan for providing 911 service and wireless enhanced 911 service to all citizens of Tennessee. Section 11(b) provides:

*2 The board shall encourage and promote the planning, development, and implementation of 911 service for each newly created emergency communications district. Any emergency communications district newly created after the effective date of this Act shall have its 911 system plan approved by the board prior to implementation. The plan for each such district shall include specific local requirements. Such plan shall include, but not be limited to, law enforcement, firefighting, and emergency medical services and may include, but not be limited to, other emergency services such as poison control, animal control, suicide prevention, and emergency management services.

Such plan shall also include funding requirements necessary to implement and operate the 911 system; provided, however, that if anticipated revenues are not adequate to achieve and maintain technical and operating standards as established by the board in this part, the board shall undertake a study to determine other options for the provision of 911 service to that area.

(Emphasis added). Therefore, any newly created emergency communications district must have a plan for its 911 system approved by the Emergency Communications Board prior to implementing that plan. Under Section 14 of the Act:

After the effective date of this act, no referendum to allow the creation of a new emergency communications district within the boundaries of an existing emergency communications district shall take place without prior approval by the board. In the event that the board determines that such a creation is in the best interest of the public, and after holding a public hearing within the service area of the existing emergency communications district, the board may order that a referendum be held; provided, however, that such action shall not threaten the financial integrity or stability or the level or quality of 911 service of the existing emergency communications district.

1998 Tenn. Pub. Acts Ch. 1108, § 14 (emphasis added). The Act became effective upon becoming law on May 20, 1998. 1998 Tenn. Pub. Acts Ch. 1108, § 32. Therefore, the Act prohibits a referendum to allow the creation of any new emergency communications district within the boundaries of an existing district without the prior approval of the Emergency Communications Board. If the City of East Ridge is within an existing emergency communications district, it may not hold a referendum to allow the creation of a new emergency communications district within the city boundaries without the prior approval of the Emergency Communications Board. If the City of East Ridge is not within an existing emergency communications district, it may create a new district, but implementation of any emergency communications plan developed by the new district may not be implemented without the prior approval of the Emergency Communications Board.

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